

REMARKS

The Official Action mailed December 3, 2007, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on April 25, 2006; May 23, 2006; and April 20, 2007.

A Correction to Previously Submitted Information Disclosure Statement is enclosed and consideration of this Correction is respectfully requested.

Claims 1-22 were pending in the present application prior to the above amendment. Claim 18 has been canceled without prejudice or disclaimer, and claims 1-3, 6, 7, 9-12, 16, 17 and 19-22 have been amended to better recite the features of the present invention. Accordingly, claims 1-17 and 19-22 are now pending in the present application, of which claims 1, 2, 6, 7, 9, 10 and 16-19 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

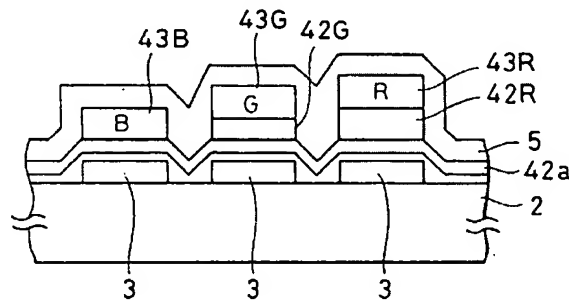
Paragraph 2 of the Official Action rejects claim 1 as anticipated by U.S. Patent No. 6,541,130 to Fukuda. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 1 has been amended to recite a first electrode that has a non-light-transmitting property, which is supported in the present specification, for example, by page 2, lines 17-19, and original claim 7. For the reasons provided below, the

Applicant respectfully submits that Fukuda does not teach the above-referenced features of the present invention, either explicitly or inherently.

The Official Action asserts that "Fukuda discloses and shows (Fig. 3) ... a first electrode" (page 2, Paper No. 20071114; Figure 3 reproduced below). Although the Official Action does not specify what features of Fukuda correspond with the features of the present claims, it appears that the Official Action may be relying on transparent electrode 3 of Fukuda to allegedly teach the first electrode of the present claims.



However, Fukuda appears to disclose "a transparent electrode 3 as the anode made of ITO or the like" (column 5, lines 3-4) and that "the transparent electrode 3 comprising ITO or the like is used as the cathode" (column 6, lines 31-32). That is, regardless of whether the transparent electrode 3 is an anode or a cathode, it is made of ITO and is transparent. The transparent electrode 3 of Fukuda is not a first electrode that has a non-light-transmitting property. Therefore, the Applicant respectfully submits that Fukuda does not teach a first electrode that has a non-light-transmitting property, either explicitly or inherently.

Since Fukuda does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraph 6 of the Official Action rejects claims 2, 3, 5, 9, 10, 12 and 14 as obvious based on the combination of Fukuda, U.S. Patent No. 6,589, 673 to Kido, U.S. Patent No. 5,670,792 to Utsugi, U.S. Publication No. 2005/0098207 to Matsumoto and Nakada, "Multi Photo Emission Organic EL Devices using Charge-Transfer Complex as

Charge Generation Layer," 63rd Applied Physics-related Combined Seminar, Seminar Proceedings (2002.9 Niigata Univ.), Paper 27a-ZL-12, page 1165 (English translation). Paragraph 21 of the Official Action rejects claims 6, 7 and 13 as obvious based on the combination of Fukuda, Kido, Utsugi and Matsumoto. Paragraph 29 of the Official Action rejects dependent claims 11 and 21 as obvious based on the combination of Fukuda, Kido, Utsugi, Matsumoto, Urabe and U.S. Publication No. 2005/0249974 to Mori. Paragraph 34 of the Official Action rejects dependent claims 8 and 22 as obvious based on the combination of Fukuda, Kido, Utsugi, Matsumoto, Urabe and U.S. Patent No. 6,111,274 to Arai. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

Although claim 1 is not included in the list of rejected claims at paragraph 6, it appears that claim 1 may be rejected in paragraph 7. If necessary, the Applicant requests clarification of this matter in a future Official Action.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See

also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims, as amended. As noted above, claim 1 has been amended to recite a first electrode that has a non-light-transmitting property. Independent claims 2, 6 and 7 have also been amended to recite a first electrode that has a non-light-transmitting property. Independent claims 9, 10 and 12 have been amended to recite a plurality of first electrodes each having a non-light-transmitting property. For the reasons provided below, Fukuda, Kido, Utsugi, Matsumoto and Nakada, either alone or in combination, do not teach or suggest the above-referenced features of the present invention.

Please incorporate the arguments above regarding the deficiencies in Fukuda. The Applicant respectfully submits that Fukuda does not teach or suggest a first electrode that has a non-light-transmitting property.

Kido, Utsugi, Matsumoto, Nakada, Mori and Arai do not cure the deficiencies in Fukuda. Kido is relied upon to allegedly teach doping an organic layer with a metal oxide (page 5, Paper No. 20071114), Utsugi is relied upon to allegedly teach a plurality of transistors provided at an interconnection portion formed by signal lines and scanning lines (page 6, Id.), and Matsumoto is relied upon to allegedly teach an organic light emitting device comprising a fourth layer as a layer for generating holes (page 7, Id.). Although Nakada is listed at page 4, the Official Action does not further discuss Nakada. The Official Action relies on Mori and Arai to allegedly teach the features of dependent claims 8, 11, 21 and 22. Specifically, the Official Action relies on Mori to allegedly teach a metal oxide selected from the group consisting of molybdenum oxide, vanadium oxide and rhenium oxide (page 9, Id.), and on Arai to allegedly teach an electrode comprising ITO and silicon oxide (page 10, Id.). However, Fukuda, Kido, Utsugi, Matsumoto, Nakada, Mori and Arai, either alone or in combination, do not teach or suggest a first electrode that has a non-light-transmitting property.

Since Fukuda, Kido, Utsugi, Matsumoto, Nakada, Mori and Arai do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Paragraph 24 of the Official Action rejects claims 16-20 as obvious based on the combination of Fukuda, Kido, Utsugi and U.S. Patent No. 6,969,948 to Urabe. Paragraph 29 of the Official Action rejects dependent claim 21 as obvious based on the combination of Fukuda, Kido, Utsugi, Matsumoto, Urabe and Mori. Paragraph 34 of the Official Action rejects dependent claim 22 as obvious based on the combination of Fukuda, Kido, Utsugi, Matsumoto, Urabe and Arai. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

There is no proper or sufficient reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Fukuda and Urabe or to combine reference teachings to achieve the claimed invention. MPEP § 2142 states that the examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. It is respectfully submitted that the Official Action has failed to carry this burden. While the Official Action relies on various teachings of the cited prior art to disclose aspects of the claimed invention and asserts that these aspects could be modified in the manner asserted in the Official Action, it is submitted that the Official Action does not adequately set forth why one of skill in the art would combine the references to achieve the features of the present invention.

The test for obviousness is not whether the references "could have been" combined or modified as asserted in the Official Action, but rather whether the references should have been. As noted in MPEP § 2143.01, "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (emphasis in original). Thus, it

is respectfully submitted that the standard set forth in the Official Action is improper to support a finding of *prima facie* obviousness.

The Official Action concedes that "Fukuda as modified by Kido, Utsugi and Matsumoto discloses all the limitations of claims 16-20 except for the addition of a plurality of color filters having different optical characteristics which are formed on the first electrode side or emission side" (page 8, Paper No. 20071114). The Official Action relies on Urabe to allegedly teach "three color light emitting devices ... with corresponding color filters ... on the emission side" (*Id.*). The Official Action asserts that "it would have been obvious ... to modify Fukuda, Kido and Utsugi by using a plurality of color filters having different optical characteristics which are formed on the first electrode side or emission side for advantages such as increasing contrast according to the teachings of Urabe" (pages 8-9, *Id.*). The Applicant respectfully disagrees and traverses the above assertions in the Official Action.

Independent claim 18 has been canceled without prejudice or disclaimer, and independent claims 16, 17 and 19 have been amended in a similar manner to claim 1. That is, claims 16, 17 and 19 have been amended to recite a first electrode that has a non-light-transmitting property. Dependent claims 20-22 have been amended accordingly. As noted above, the Applicant respectfully submits that Fukuda does not teach or suggest a first electrode that has a non-light-transmitting property. Urabe appears to disclose that "[t]he anode 12 has, for example, a thickness in the stack direction (hereinbelow, simply called thickness) of about 200 nm and is made of a metal such as platinum (Pt), gold (Au), silver (Ag), chrome (Cr), or tungsten (W) or an alloy of any of the metals" (column 4, lines 60-65). Based on this disclosure, one might argue that Urabe teaches a first electrode that has a non-light-transmitting property. However, the Applicant respectfully submits that there is no reason why one of ordinary skill in the art at the time of the present invention would have combined Fukuda and Urabe to achieve the features of the present invention. Specifically, there is no reason why one of ordinary skill in the art at the time of the present invention would have combined the

For example, Fukuda discloses that “the largest refractive index difference between the glass substrate 2 and the transparent electrode 3 is taken into account” (column 10, lines 17-19). There is no reason to combine or modify the device shown in Figure 3 of Fukuda, where light appears to transmit through the glass substrate 2 and the transparent electrode 3, with the device shown in Figure 1 of Urabe, where light

does not appear to transmit through the metal anode 12. In other words, if one were to add the metal anode 12 of Urabe to Fukuda, it would frustrate and possibly destroy the function of Fukuda. Therefore, the Applicant respectfully submits that there is no reason to combine the Fukuda and Urabe to achieve the features of the present invention.

Therefore, the Applicant respectfully submits that the Official Action has not provided a proper or sufficient reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Fukuda and Urabe or to combine reference teachings to achieve the claimed invention.

The Applicant respectfully submits that Kido, Utsugi, Matsumoto, Mori and Arai (discussed above) do not cure the deficiencies in the alleged combination of Fukuda and Urabe.

In the present application, it is respectfully submitted that the prior art of record, either alone or in combination, does not expressly or impliedly suggest the claimed invention and the Official Action has not presented a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

For the reasons stated above, the Official Action has not formed a proper *prima facie* case of obviousness. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

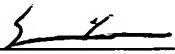
At this opportunity, claims 2, 3, 9-12 and 19 have been amended to correct minor informalities.

The Official Action mailed December 3, 2007, appears to be incomplete. Specifically, claim 4 is not specifically addressed or formally rejected in the Official Action. Claim 4 is similar to claims 11 and 21, which are rejected on the basis of the alleged combination of Fukuda, Kido, Utsugi, Matsumoto, Urabe and Mori (page 9, Paper No. 20071114). However, claim 4 depends from claim 2, which is rejected on the basis of the alleged combination of Fukuda, Kido, Utsugi, Matsumoto and Nakada (page

4, Id.). As such, the Official Action has not formally rejected claim 4. The Official Action has not set forth a *prima facie* case of obviousness as to an alleged combination of Fukuda, Kido, Utsugi, Matsumoto, Nakada and Mori. As such, the Applicant respectfully requests issuance of a new non-final Official Action or Notice of Allowability, as appropriate. For at least the reasons set forth above, the Applicant respectfully submits that claim 4 is in condition for allowance.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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